

Rulemaking Process at the WUTC

Chapter 34.05 RCW sets out the basic process for the adoption of rules by state agencies, including the Commission. The Commission must follow the law to adopt, amend, or repeal rules. The following is a brief description of the general processes that the Commission uses to follow the requirements of the statute. Individual elements may vary depending on the kind of rulemaking (emergency rules are processed differently, for example) and the needs and required timing of the proposal.

CR-101

A rulemaking begins with the Commission's consideration and issuance of a Preproposal Statement of Inquiry, on the Code Reviser's form **CR-101**. The CR-101 identifies possible subjects of rulemaking under active consideration within the Commission and solicits comments from the public on those subjects. The CR-101 is filed with the Code Reviser and published in the Washington State Register. The Commission sends notice of the CR-101 to persons who have asked for such notices and to others it believes may be interested in the topic, and sets a date for comments on the CR-101. The Commission may also set a date for one or more workshops with interested persons.

Workshops/Opportunity for Additional Written Comments

Workshops are informal meetings that provide the Commission and interested persons an opportunity to identify any issues related to the subject of the rulemaking, to discuss options for addressing those issues, and to gather information before beginning to draft rules. Following the workshop(s), Commission Staff begins the process of drafting proposed rules, taking into consideration the comments of workshop participants and the written comments filed by interested persons. Written comments and /or alternative draft language are solicited from interested persons on the draft proposed rules. The Commission may hold additional workshops to craft language, review drafts, or conduct other activities that involve interested persons as well as Commission Staff in the development of rulemaking proposals. Commissioners may participate in workshops, receive briefings, and talk with staff and other interested persons to monitor and share their views about the developing rules.

SBEIS

Commission Staff will determine whether a Small Business Economic Impact Statement (SBEIS) is needed once the draft proposed rules are far enough along

to identify the possible extent of proposed rules. If so, the Commission will solicit information from interested persons to assess the costs to businesses of implementing proposals for rules. Staff will prepare an SBEIS based on the information received, in accordance with Chapter 19.85 RCW – the state’s Regulatory Fairness Act.

CR-102

The Commission seeks reasonable consensus in the development of rules. When consensus is achieved, or when time needs or other factors indicate that a proposal should proceed without complete consensus, the Commission will make its decision on whether to go forward with a formal proposal. This is done publicly, when feasible, either during an open public meeting or in another forum that provides an opportunity for public comment. Interested persons may comment orally before the Commission.

If the Commission approves publication of the draft rules for comment, they become the Commission’s formal rule proposal. Notice of the proposed rules is filed with the Code Reviser on the Code Reviser’s **CR-102** form, along with the proposed rules. These are published in the State Register along with the SBEIS, if one is prepared. The Commission provides notice of the CR-102 filing to interested persons, and requests written comments on the rule proposal. The Commission may hold additional workshops if it believes they will be helpful. The CR-102 will set a date for an adoption hearing if one is required by law or if the Commission feels a hearing is appropriate.

Adoption Hearing

After reviewing the comments of interested persons on the rule proposal, the Commission considers them in a rulemaking hearing. Interested persons may comment orally. The Commission is not required to decide whether to adopt the proposal during the hearing, but may listen to comments and act at another time.

Adoption Order

If the Commission adopts, amends, or repeals a rule, it will enter a rule adoption order and file the order and the adopted rules with the Code Reviser for publication in the State Register. The rules become effective on the 31st day after filing, unless the Commission specifies a different date in the Adoption Order.